

Maine Revised Statutes
Title 34-B: BEHAVIORAL AND DEVELOPMENTAL SERVICES
Chapter 1: GENERAL PROVISIONS

§1203-A. LICENSES

Licenses to operate, conduct or maintain an agency or facility for the provision of mental health services as defined in section 3601 or for the provision of treatment as defined in chapter 6, subchapter 2, including facilities that are private nonmedical institutions, are governed as follows. [2003, c. 673, Pt. V, §6 (AMD); 2003, c. 673, Pt. V, §29 (AFF).]

1. Full license. Full licenses are governed as follows.

A. The commissioner shall issue a full license to an applicant agency or facility that has complied with:

- (1) All applicable laws and rules; and
- (2) All conditions imposed by the commissioner at the time of issuance of a conditional license, refusal to issue or renew a full license or revocation of a full license. [1989, c. 227, §1 (NEW).]

B. A full license is issued for a term of 2 years. [2015, c. 267, Pt. RR, §4 (AMD).]

C. When a full licensee fails to comply with applicable laws and rules, the commissioner may:

- (1) File a complaint with the District Court to have the license revoked, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375; or
- (2) Modify the full license to a conditional license in accordance with subsection 2. [1989, c. 227, §1 (NEW); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF).]

[2015, c. 267, Pt. RR, §4 (AMD) .]

2. Conditional license. Conditional licenses are governed as follows.

A. The commissioner may issue a conditional license to an agency or facility reapplying for a full license, if:

- (1) The applicant fails to comply with applicable laws and rules; and
- (2) In the judgment of the commissioner, the best interests of the public would be served by issuance of a conditional license. [1989, c. 227, §1 (NEW).]

B. The commissioner may modify an existing full license to a conditional license, after affording the full licensee an opportunity for hearing in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, if:

- (1) The applicant fails to comply with applicable laws and rules; and
- (2) In the judgment of the commissioner, the best interests of the public would be served. [1989, c. 227, §1 (NEW).]

C. A conditional license shall be issued for a specified period of time, not to exceed one year, or the remaining period of the previous full license, whichever the commissioner determines appropriate based on the nature of the violation of laws or rules. [1989, c. 227, §1 (NEW).]

D. A conditional license shall specify the conditions imposed by the commissioner and shall specify when those conditions shall be complied with during the term of the conditional license. [1989, c. 227, §1 (NEW).]

E. During the period of the conditional license, the licensee shall comply with all conditions imposed by the commissioner. [1989, c. 227, §1 (NEW).]

F. If the conditional licensee fails to comply with conditions imposed by the commissioner, the commissioner may initiate proceedings to revoke, suspend or refuse to renew the conditional license in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375. [1989, c. 227, §1 (NEW).]

[1989, c. 227, §1 (NEW) .]

3. Provisional license. Provisional licenses are governed as follows.

A. The commissioner may issue a provisional license to an agency or facility that:

- (1) Has not been previously licensed for the type of service for which application is made;
- (2) Is temporarily unable to comply with all applicable laws and rules; and
- (3) Is in compliance with specific laws and rules determined by the commissioner as essential for the protection of the residents or clients of the agency or facility. [1989, c. 227, §1 (NEW).]

B. To obtain a provisional license, an applicant must demonstrate the ability to comply with all applicable laws and rules by the end of the term of the provisional license. [1989, c. 227, §1 (NEW).]

C. A provisional license shall be issued for a specified period of time, which is at least 3 months but no longer than 12 months, as determined appropriate by the commissioner. [1989, c. 227, §1 (NEW).]

[1989, c. 227, §1 (NEW) .]

4. Licensing fees and terms. Except for children's residential care facilities defined in Title 22, section 8101, subsection 4 and licensed in accordance with Title 22, section 8104, fees and terms for licenses under this section are as follows.

A. The application fee for a provisional license may not be less than \$100 nor more than \$280. The term of a provisional license is established pursuant to subsection 3, paragraph C. [2015, c. 267, Pt. RR, §5 (NEW).]

B. The application fee for a full license may not be less than \$100 nor more than \$280. The term of a full license is for 2 years. [2015, c. 267, Pt. RR, §5 (NEW).]

C. The fee for the biennial renewal of a full license may not be less than \$70 nor more than \$170. [2015, c. 267, Pt. RR, §5 (NEW).]

D. The processing fee to add a service site to an issued license may not be less than \$35 nor more than \$70. [2015, c. 267, Pt. RR, §5 (NEW).]

E. The processing fee to add a service to an issued license may not be less than \$70 nor more than \$140. [2015, c. 267, Pt. RR, §5 (NEW).]

F. A licensee under this section shall maintain a valid license. An issued license is not valid when the information on the license is no longer accurate. A processing fee not to exceed \$10 must be paid to the department to secure a reissued license with accurate information. The fee applies to each license replaced. The reissued license must have the same expiration date as the replaced license. [2015, c. 267, Pt. RR, §5 (NEW).]

G. The transaction fee for the electronic renewal of a license may not be less than \$25 nor more than \$50 for the electronic renewal of a license. The transaction fee may not exceed the cost of providing the electronic renewal service. [2015, c. 267, Pt. RR, §5 (NEW).]

H. The department shall adopt rules to implement this subsection. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2015 , c . 267 , Pt. RR, §5 (NEW) .]

[2015 , c . 267 , Pt. RR, §5 (AMD) .]

5. Monitoring for compliance. Regardless of the term of the license, the commissioner shall monitor the licensee, at least once a year, for continued compliance with applicable laws and rules.

[1989 , c . 227 , §1 (NEW) .]

6. Appeals. Any person aggrieved by a final action of the commissioner under this section may obtain judicial review in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.

[1989 , c . 227 , §1 (NEW) .]

7. Prohibited acts. Prohibited acts under this section are governed as follows.

A. An agency is guilty of unlicensed operation of a mental health service facility if it operates, conducts or maintains such a facility, not otherwise licensed as a hospital or medical care facility, without a license from the commissioner. [1989 , c . 227 , §1 (NEW) .]

B. Notwithstanding Title 17-A, sections 4-A and 1301, unlicensed operation of a mental health service facility is punishable by a fine of not more than \$500 or by imprisonment for not more than 60 days. [1989 , c . 227 , §1 (NEW) .]

[1989 , c . 227 , §1 (NEW) .]

8. National accreditation. An agency or facility required to obtain a license under this section that receives and maintains accreditation from a national accrediting body approved by the department must be deemed in compliance with comparable state licensing rules upon its submission to the department of written evidence of compliance including, but not limited to, national accreditation approval, reports, findings and responses. The department may review compliance under this subsection in response to a complaint against the agency or facility.

[2011 , c . 145 , §3 (NEW) .]

SECTION HISTORY

1989 , c . 227 , §1 (NEW) . 1999 , c . 547 , §B78 (AMD) . 1999 , c . 547 , §B80 (AFF) . 2003 , c . 369 , §1 (AMD) . 2003 , c . 369 , §2 (AFF) . 2003 , c . 673 , §V6 (AMD) . 2003 , c . 673 , §V29 (AFF) . 2011 , c . 145 , §3 (AMD) . 2015 , c . 267 , Pt. RR, §§4, 5 (AMD) .

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